

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
DELTA DIVISION

ANTWAN BOGAN

PLAINTIFF

V.

CIVIL ACTION NO.2:08CV98-WAP-JAD

ANDREW THOMPSON, et al.

DEFENDANTS

REPORT AND RECOMMENDATION

Antwan Bogan's original complaint named Andrew Thompson and Calvin Suggs as defendants in this action. Bogan filed multiple amended complaints and motions to amend naming assorted defendants in various versions of the complaint. Because of the resulting confusion and in an effort to require Bogan to comply with the procedures of the court he was ordered to submit all allegations against all defendants in one complaint on the court's form (Doc. 18). He filed an amended complaint and promptly filed two more motions to amend. The court ordered him once more to prepare and file an amended complaint with all allegations he wished to make against all defendants he wished included in the action. Bogan complied with the order of the court by filing his amended complaint on November 13, 2008. This amended complaint includes allegations against Thompson and a Dr. Brooks, but not Suggs.

A *Spears* hearing was held on December 2, 2008 directing process to issue to all defendants. Process was issued to and served on Suggs because he was listed on the docket, though not named in the latest complaint. Because process was issued in error, the undersigned recommends that the defendant Calvin Suggs be dismissed without prejudice.

The parties are referred to 28 U.S.C. 636(b)(1) and Local Rule 72.1(C) for the appropriate procedure in the event any party desires to file objections to these findings and recommendations. Objections are required to be in writing and must be filed within ten days of this date. Failure to file

written objections to the proposed finding and recommendations contained in this report within ten days from the date of filing will bar an aggrieved party from challenging on appeal both the proposed factual findings and the proposed legal conclusions accepted by the district court *Douglass v. United Services Automobile Association*, 79 F.3d 1415 (5th Cir. 1996).

Plaintiff is directed to acknowledge receipt of this report and recommendation by signing the enclosed acknowledgment form and returning it to the court within ten days of this date. Plaintiff is warned that failure to comply with the requirements of this paragraph may lead to the dismissal of this lawsuit under F.R.Civ.P. 41(b) for failure to prosecute and for failure to comply with an order of the court.

SO ORDERED this the 6th day of January, 2009.

/s/ JERRY A. DAVIS
UNITED STATES MAGISTRATE JUDGE